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**TITLE 50 STATE BOARD OF TAX COMMISSIONERS**

LSA Document #00-67(F)

**DIGEST**

Amends 50 IAC 15 to add provisions regarding tax representatives governed under IC 6-1.1-31-11. Establishes limitations on, and requirements for, practicing before the county property tax assessment board of appeals, the state board of tax commissioners division of appeals, or the state board of tax commissioners. Effective 30 days after filing with the secretary of state.

**50 IAC 4.2-1-7**

**50 IAC 15-1-5**

**50 IAC 15-5**

SECTION 1. 50 IAC 15-1-5 IS ADDED TO READ AS FOLLOWS:

**50 IAC 15-1-5 “Tax representative” defined**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8

**Affected:** IC 6-1.1-2-4; IC 6-1.1-15

**Sec. 5. “Tax representative” means a person who represents another person at a proceeding before the property tax assessment board of appeals, the division of appeals, or the board, under IC 6-1.1-15. The term does not include:**

- (1) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;**
- (2) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;**
- (3) representatives of local units of government appearing on behalf of the unit;**
- (4) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or**
- (5) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the board to appear pro hac vice.**

*(State Board of Tax Commissioners; 50 IAC 15-1-5; filed Dec 5, 2000, 2:32 p.m.: 24 IR 946)*

SECTION 2. 50 IAC 15-5 IS ADDED TO READ AS FOLLOWS:

**Rule 5. Tax Representatives**

**50 IAC 15-5-1 Definitions**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11

**Affected:** IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-28-1; IC 6-1.1-30-11

**Sec. 1. The following definitions apply throughout this rule:**

- (1) “Division of appeals” means the division of appeals of the board established under IC 6-1.1-30-11.**
- (2) “Practice before the property tax assessment board of appeals, the division of appeals, or the board” means participation in any matters connected with a presentation to the property tax assessment board of appeals, the division of appeals, the board, or any of their officers, or employees relating to a client’s rights, privileges, or liabilities under Indiana’s property tax laws or rules. Such presentations include, but are not limited to, the following:**
  - (A) Preparing and filing necessary documents, except personal property returns.**
  - (B) Corresponding and communicating with the property tax assessment board of appeals, the division of appeals, or the board.**
  - (C) Representing a client at hearings, on-site inspections, and meetings.**

Practice before the property tax assessment board of appeals, the division of appeals, or the board does not include the activities of any local unit of government participating before the property tax assessment board of appeals, the division of appeals, or the board.

(3) "Property tax assessment board of appeals" means the county property tax assessment board of appeals established under IC 6-1.1-28-1.

(4) "Tax representative" means a person who represents another person at a proceeding before the property tax assessment board of appeals, the division of appeals, or the board under IC 6-1.1-15. The term does not include:

(A) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;

(B) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;

(C) representatives of local units of government appearing on behalf of the unit;

(D) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or

(E) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the board to appear pro hac vice.

*(State Board of Tax Commissioners; 50 IAC 15-5-1; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947)*

#### **50 IAC 15-5-2 Practice requirements**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11

**Affected:** IC 6-1.1-15-1; IC 6-1.1-15-12; IC 6-1.1-26-1

**Sec. 2. (a)** In order to practice before the property tax assessment board of appeals, the division of appeals, or the board, a tax representative must:

(1) beginning July 1, 2001, be properly certified by the board; and

(2) have a copy of a properly executed power of attorney from the taxpayer on the form prescribed by the board on file with the entity conducting the hearing before a hearing will be scheduled.

(b) Property tax representatives may not be certified to practice before the property tax assessment board of appeals, the division of appeals, or the board for:

(1) matters relating to real and personal property exemptions claimed on a Form 132 or 136;

(2) claims that assessments or taxes are "illegal as a matter of law", whether brought on a Form 133 pursuant to IC 6-1.1-15-12(a)(6), on a Form 17-T pursuant to IC 6-1.1-26-1(4), a Form 130 pursuant to IC 6-1.1-15-1, or otherwise;

(3) claims regarding the constitutionality of an assessment; or

(4) any other representation that involves the practice of law.

(c) Individuals who apply for certification or recertification as a tax representative must furnish evidence to the board that they:

(1) are at least eighteen (18) years of age;

(2) hold a high school diploma or equivalent credential;

(3) are a certified Level Two assessor-appraiser;

(4) have completed the educational course requirements of all rules adopted by the board related to procedures for practice before the property tax assessment board of appeals, the division of appeals, or the board;

(5) have fully complied with all rules adopted by the board regarding professional conduct and ethical considerations; and

(6) have fully complied with all rules adopted by the board regarding client solicitation.

*(State Board of Tax Commissioners; 50 IAC 15-5-2; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947)*

#### **50 IAC 15-5-3 Recertification**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11

**Affected:** IC 6-1.1

**Sec. 3.** Tax representative certifications expire on the same date as the tax representative's certification as a Level Two assessor-appraiser under 50 IAC 15-3-4. *(State Board of Tax Commissioners; 50 IAC 15-5-3; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948)*

#### **50 IAC 15-5-4 Course work**

**Authority:** IC 6-1.1-31-11  
**Affected:** IC 6-1.1

**Sec. 4.** Beginning January 1, 2002, a tax representative must, within each forty-eight (48) month continuing education certification cycle under 50 IAC 15-3-4, complete twelve (12) hours of course work that has been designated as tax representative practice course work approved by the board. Of the twelve (12) hours of tax representative practice course work:

- (1) six (6) hours must be evidenced by passage of the associated course work examination; and
- (2) three (3) hours must relate to professional conduct, ethical considerations, or client communications.

The course work completed under this section will be credited toward the total continuing education course work required to maintain a Level Two assessor-appraiser certification under 50 IAC 15-3-4. (*State Board of Tax Commissioners; 50 IAC 15-5-4; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948*)

**50 IAC 15-5-5 Communication with client or prospective client**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11  
**Affected:** IC 6-1.1-2-4

**Sec. 5. (a)** No certified property tax representative shall, with respect to any matter relating to practice before the property tax assessment board of appeals, the division of appeals, or the board, in any way use or participate in the use of any form of public communication containing a:

- (1) false, fraudulent, unduly influencing, coercive, or unfair statement or claim; or
- (2) misleading or deceptive statement or claim.

(b) Beginning January 1, 2001, a property tax representative shall advise the client or prospective client in writing, using a typeface of not less than 12-point, either on the power of attorney or in some other form that may be reasonably interpreted by the taxpayer (the property owner, or person liable for the taxes under IC 6-1.1-2-4) to set forth the rights of the taxpayer with regard to his or her appeal, the following:

“I understand that by authorizing \_\_\_\_\_ to serve as my certified property tax representative, I am aware of and accept the possibility that the property value may increase as a result of filing an administrative appeal with the property tax assessment board of appeals, the division of appeals of the state board of tax commissioners, or the state board of tax commissioners, and that I may be compelled to appear at a hearing before any or all of these boards.

I further understand that the certified property tax representative is not an attorney and may not present arguments of a legal nature on my behalf. I understand that legal issues relating to my assessment that may now exist or may be discovered at some time in the future will not and cannot be addressed by the certified property tax representative, and that if not raised before the property tax assessment board of appeals may not be raised at a later stage of my assessment appeal.”

The disclosure shall be signed by the taxpayer. The certified property tax representative shall provide the taxpayer with a copy of the disclosure and shall be required to provide a copy of the disclosure to the property tax assessment board of appeals, the division of appeals, or the board, upon request. Failure to provide a signed copy of disclosure upon request may be grounds for dismissal of the appeal. (*State Board of Tax Commissioners; 50 IAC 15-5-5; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948*)

**50 IAC 15-5-6 Prohibitions; obligations**

**Authority:** IC 6-1.1-31-1; IC 6-1.1-31-11  
**Affected:** IC 6-1.1-2-4

**Sec. 6.** A certified tax representative shall:

- (1) not knowingly misrepresent any information or act in a fraudulent manner;
- (2) not prepare documents or provide evidence in a property assessment appeal unless the representative is authorized by the property owner (or person liable for the taxes under IC 6-1.1-2-4) to do so and any required authorization form has been filed;
- (3) not knowingly submit false or erroneous information in a property assessment appeal;
- (4) use the appraisal standards and methods required by rules adopted by the board when the representative submits appraisal information in a property assessment appeal; and

**(5) notify the property owner (or person liable for the taxes under IC 6-1.1-2-4) of all matters relating to the review of the assessment of taxpayers' property before the property tax assessment board of appeals, the division of appeals, or the board, including, but not limited to, the following:**

**(A) The tax representative's filing of all necessary documents, correspondence, and communications with the division of appeals.**

**(B) The dates and substance of all hearings, on-site inspections, and meetings.**

*(State Board of Tax Commissioners; 50 IAC 15-5-6; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948)*

#### **50 IAC 15-5-7 Contingent fees**

**Authority: IC 6-1.1-31-1; IC 6-1.1-31-11**

**Affected: IC 6-1.1**

**Sec. 7. (a) In the event a tax representative charges a contingent fee for any matter relating to practice before the property tax assessment board of appeals, the division of appeals, or the board, the tax representative may not testify at hearings or on-site inspections without first disclosing the existence of the contingent fee arrangement.**

**(b) Failure to disclose the existence of a contingent fee arrangement may result in the exclusion of the certified tax representative's testimony or in dismissal of the appeal.**

**(c) As used in this section, "contingent fee" includes a fee that is based on:**

**(1) a percentage of the refund obtained;**

**(2) a percentage of the taxes saved; or**

**(3) a percentage of the reduction in property value.**

*(State Board of Tax Commissioners; 50 IAC 15-5-7; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949)*

#### **50 IAC 15-5-8 Certification; revocation**

**Authority: IC 6-1.1-31-1; IC 6-1.1-31-11**

**Affected: IC 6-1.1**

**Sec. 8. (a) After a hearing, the board may deny, suspend, or revoke the certification of a property tax representative on the following grounds:**

**(1) Violation of any rule applicable to certification.**

**(2) Gross incompetence in the performance of practicing before the property tax assessment board of appeals, the division of appeals, or the board.**

**(3) Dishonesty or fraud committed while practicing before the property tax assessment board of appeals or the division of appeals, or the board.**

**(4) Violation of the standards of ethics or rules of solicitation adopted by the board.**

**(b) A hearing under subsection (a) will be conducted in a manner that affording the tax representative or applicant due process. Specifically, the tax representative or applicant will be given the opportunity to participate in the hearing process and may be represented by counsel, if desired. It shall be the burden of the board to show, by a preponderance of the evidence, that the denial, suspension, or revocation is justified under this rule.**

**(c) A certification may be suspended under this rule for a period of up to one (1) year. An applicant that has been denied certification, or a tax representative whose certification has been revoked, may reapply after one (1) year from the date the certification was denied or revoked. *(State Board of Tax Commissioners; 50 IAC 15-5-8; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949)***

**SECTION 3. 50 IAC 4.2-1-7 IS REPEALED.**

*LSA Document #00-67(F)*

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